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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है कि जिससे यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 15th April, 1975:—

BILL NO. 33 OF 1975

A Bill further to amend the Government of Union Territories Act, 1963 the Representation of the People Act, 1950 and the Representation of the People Act, 1951 and also to amend the North-Eastern Council Act, 1971.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Government of Union Territories (Amendment) Act, 1975.

(2) It shall come into force on such date, being a date not earlier than the date of commencement of the Constitution (Thirty-Seventh Amendment) Act, 1975, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

20 of 1963.

2. In section 1 of the Government of Union Territories Act, 1963 (hereinafter referred to as the principal Act), in sub-section (*2*),—

(*i*) before the second proviso, the following proviso shall be inserted, namely:—

"Provided further that it shall come into force in the Union territory of Arunachal Pradesh on such date, being a date not earlier than the date of commencement of the Government of Union Territories (Amendment) Act, 1975, as the Central Government may, by notification in the Official Gazette, appoint:";

(*ii*) in the second proviso, for the words "Provided further that", the words "Provided also that, subject to the preceding provisos," shall be substituted.

Amendment of section 2.

3. In section 2 of the principal Act, in sub-section (*1*), in clause (*h*), for the words "Pondicherry and Mizoram", the words "Pondicherry, Mizoram and Arunachal Pradesh" shall be substituted.

Substitution of new section for section 21.

4. For section 21 of the principal Act, the following section shall be substituted, namely:—

Inconsistency between laws made by Parliament and laws made by Legislative Assembly.

"21. If any provision of a law made by the Legislative Assembly of a Union territory with respect to any matter enumerated in the State List in the Seventh Schedule to the Constitution is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly of the Union territory, or, if any provision of a law made by the Legislative Assembly of a Union territory with respect to any matter enumerated in the Concurrent List in the Seventh Schedule to the Constitution is repugnant to any provision of any earlier law, other than a law made by the Legislative Assembly of the Union territory, with respect to that matter, then, in either case, the law made by Parliament, or, as the case may be, such earlier law shall prevail and the law made by the Legislative Assembly of the Union territory shall, to the extent of the repugnancy, be void:

Provided that if such law made by the Legislative Assembly of the Union territory has been reserved for the consideration of the President and has received his assent, such law shall prevail in that Union territory:

Provided further that nothing in this section shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly of the Union territory.".

Amendment of section 26.

5. In section 26 of the principal Act, for the words "by the President", the words "by the Administrator, or, on being reserved by the Administrator for the consideration of the President, by the President" shall be substituted.

Amendment of section 33.

6. In section 33 of the principal Act, in the proviso to sub-section (*2*), for the words "the Legislative Assembly of the Union territory of Mizoram", the words "the Legislative Assemblies of the Union territories of Arunachal Pradesh and Mizoram" shall be substituted.

Amendment of section 38.

7. In section 38 of the principal Act, in clause (*a*), for the words, figures and letter "under section 43A", the words, figures and letters "under section 43A or section 43C" shall be substituted.

Insertion of new sections 43B and 43C.

8. After section 43A of the principal Act, the following sections shall be inserted, namely:—

Representation of Arunachal Pradesh in the House of the People.

"43B. In the House of the People to be constituted after the general election to that House to be held after the commencement of the Government of Union Territories (Amendment) Act, 1975 and thereafter, there shall be allotted two seats to the Union territory of Arunachal Pradesh and the First Schedule to the Representation of the People Act, 1950 shall be deemed to have been amended accordingly. 43 of 1950.

Special provisions for delimitation of parliamentary constituencies in Arunachal Pradesh and constituencies of Arunachal Pradesh Legislative Assembly.

43C. (*1*) The provisions of sections 39 to 43 (both inclusive) shall not apply to the delimitation of parliamentary constituencies in the Union territory of Arunachal Pradesh or to the delimitation of constituencies for the purpose of elections to the Legislative Assembly of that Union territory.

(*2*) The Election Commission shall divide the Union territory of Arunachal Pradesh into two single-member parliamentary constituencies on the basis of the latest census figures.

(*3*) The Election Commission shall also, in the manner herein provided, distribute the seats assigned to the Legislative Assembly of the Union territory of Arunachal Pradesh under sub-section (*2*) of section 3 to single-member assembly constituencies and delimit them on the basis of the latest census figures having regard to the following provisions:—

(*a*) all constituencies shall, as far as practicable, be geographically compact areas;

(*b*) every assembly constituency shall be so delimited as to fall only within one parliamentary constituency;

(*c*) in delimiting the constituencies, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience.

(*4*) For the purpose of assisting in the performance of its functions under sub-sections (*2*) and (*3*), the Election Commission shall associate with itself as associate members—

(*a*) the member of the House of the People representing the Union territory of Arunachal Pradesh;

(*b*) such five members of the Legislative Assembly of the Union territory of Arunachal Pradesh as the Speaker of that Assembly shall, having regard to the composition of the Legislative Assembly, nominate:

Provided that none of the associate members shall have a right to vote or sign any decision of the Election Commission.

(*5*) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled, if practicable, in accordance with the provisions of sub-section (*4*).

(*6*) The Election Commission shall—

(*a*) publish its proposals for the delimitation of constituencies together with the dissenting proposals, if any, of any associate member who desires publication thereof in the Official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

(*b*) consider all objections and suggestions which may have been received by it before the date so specified;

(*c*) after consideration of objections and suggestions which may have been received by it before the date so specified,

determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(7) The Election Commission may, from time to time, by notification in the Official Gazette,—

(*a*) correct any printing mistake in any order made under sub-section (6) or any error arising therein from inadvertent slip or omission;

(*b*) where the boundaries or name of any territorial division mentioned in any such order or orders are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(8) Every order made under sub-section (6) and every notification issued under sub-section (7) shall be laid as soon as may be after it is made or issued before the House of the People and the Legislative Assembly of the Union territory of Arunachal Pradesh.

(9) All things done, and all steps taken, before the commencement of this Act in the Union territory of Arunachal Pradesh with a view to delimiting the territorial constituencies of that Union territory for purposes of elections to the Legislative Assembly of that Union territory shall, in so far as they are in conformity with the foregoing provisions of this section, be deemed to have been done or taken under those provisions as if these provisions were in force at the time such things were done or such steps were taken.".

Amendment of section 44.

9. In section 44 of the principal Act, in sub-section (2), for the words "the Administrator of the Union territory of Mizoram", the words "the Administrator of each of the Union territories of Arunachal Pradesh and Mizoram" shall be substituted.

Insertion of new section 54A.

10. After section 54 of the principal Act, the following section shall be inserted, namely:—

Provision as to provisional Legislative Assembly of Arunachal Pradesh.

"54A. (1) Notwithstanding anything contained in this Act (including provisions relating to the strength of the Legislative Assembly of the Union territory of Arunachal Pradesh), until the Legislative Assembly of the Union territory of Arunachal Pradesh has been duly constituted and summoned to meet for the first session under and in accordance with the provisions of this Act, there shall be a provisional Legislative Assembly which shall consist of members, being those persons referred to in clauses (*b*), (*c*) and (*d*) of section 3 of the North-East Frontier Agency (Administration) Supplementary Regulation, 1971 and who are functioning, immediately before the commencement of this Act in the Union territory of Arunachal Pradesh, as members of the Pradesh Council constituted under the said section 3. 4 of 1971.

(2) The term of office of the members of the provisional Legislative Assembly shall expire immediately before the first meeting of the Legislative Assembly duly constituted after the first general election to that Assembly

(3) The provisional Legislative Assembly constituted under this section shall, for so long as it is in existence, be deemed to be the Legislative Assembly duly constituted under this Act and accordingly the other provisions of this Act, so far as may be, apply in relation to the provisional Legislative Assembly as they apply in relation to the Legislative Assembly.".

Amendment of Act 43 of 1950.

11. In the Representation of the People Act, 1950,—

(i) **In section 4,—**

(a) **sub-section (1) shall be omitted;**

(b) **for sub-section (2), the following sub-section shall be substituted, namely:—**

"(2) **All the seats in the House of the People allotted to the States under section 3 shall be seats to be filled by persons chosen by direct election from parliamentary constituencies in the States.**";

(ii) in section 27A,—

(a) in sub-section (1), for the words, brackets and figure "Subject to the provisions of sub-section (5), for the purpose of filling any seat", the words "For the purpose of filling any seat" shall be substituted;

(b) in sub-section (4), for the words "The electoral college for each of the Union territories of Pondicherry and Mizoram", the words "The electoral college for each of the Union territories of Arunachal Pradesh, Mizoram and Pondicherry" shall be substituted;

(c) sub-section (5) shall be omitted.

Amendment of Act 43 of 1951.

12. In the Representation of the People Act, 1951, in section 4, in the opening portion, the words "other than a seat allotted to the Union territory of Arunachal Pradesh" shall be omitted.

Provision as to sitting members in the House of the People and the Council of States.

13. Notwithstanding anything contained in sections 11 and 12—

(a) the member representing, immediately before the commencement of this Act, the Union territory of Arunachal Pradesh in the present House of the People shall continue to represent that Union territory until the dissolution of the present House of the People and so often as before such dissolution the seat allotted to that Union territory in the present House of the People becomes vacant, it shall be filled by a person nominated by the President and that person shall represent that Union territory in the present House of the People until its dissolution;

(b) the member representing, immediately before the commencement of this Act, the Union territory of Arunachal Pradesh in the Council of States shall continue to represent that Union territory until the expiry of his term of office.

Amendment of Act 84 of 1971.

14. In the North-Eastern Council Act, 1971, in section 3, in sub-section (*1*),—

(*a*) in clause (*b*), for the words "and of the Union territory of Mizoram", the words "and of the Union territories of Arunachal Pradesh and Mizoram" shall be substituted;

(*b*) clause (c) shall be omitted;

(*c*) in the proviso, for the words, brackets and letter "in any State referred to in clause (*b*) or in the Union territory referred to in that clause", the words, brackets and letter "in any State or Union territory referred to in clause (*b*)" shall be substituted.

Repeal of Regulation 4 of 1971.

15. As from the commencement of the principal Act, in the Union territory of Arunachal Pradesh, the North-East Frontier Agency (Administration) Supplementary Regulation, 1971 shall stand repealed.

STATEMENT OF OBJECTS AND REASONS

There has been a groing desire among the people of the Union territory of Arunachal Pradesh that—

(*a*) a Legislative Assembly and a Council of Ministers should be constituted in that Union territory;

(b) the seats allotted to the Union territory in the Rajya Sabha and the Lok Sabha should be filled by election instead of by nomination as at present; and

(c) with the introduction of direct elections the number of seats allotted to the Union territory in the Lok Sabha should be increased to two because of the difficult terrain and the vast area (83,578 sq. kms.) of the Union territory.

The Bill seeks to achieve the aforesaid objectives through amendment of the Government of Union Territories Act, 1963, the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

2. As delimitation of constituencies of the proposed Legislative Assembly and holding of elections may take time, it is proposed that the Pradesh Council at present functioning in the Union territory shall function as the Legislative Assembly until the Assembly is duly constituted after the elections.

3. The opportunity to amend the Government of Union Territories Act, 1963, is also proposed to be availed of to remove certain lacunae in sections 21 and 26 of the said Act.

4. The notes on clauses appended to this Bill explain in detail the main provisions of the Bill.

NEW DELHI; K. BRAHMANANDA REDDY.

The 19th March, 1975.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. U-11014/5/74-UTL, dated the 25th March, 1975 from Shri K. Brahmananda Reddy, Minister of Home Affairs to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Bill further to amend the Government of Union Territories Act, 1963, the Representation of the People Act, 1950 and the Representation of the People Act, 1951 and also to amend the North-Eastern Council Act, 1971, recommends the introduction of the Bill in Lok Sabha and its consideration by that House under clauses (1) and (3) of article 117 of the Constitution.

Notes on clauses

Clause 3.—This clause seeks to amend the Government of Union Territories Act, 1963 (hereinafter referred to as the principal Act) so as to include Arunachal Pradesh within the definition of "Union territory" contained in section 2(1) (h) of that Act. The effect of this amendment will be to make the provisions of the principal Act applicable to the Union territory of Arunachal Pradesh also.

Clause 4.—Sub-section (2) of section 21 of the principal Act specifically lays down that a law made by the Legislative Assembly of a Union territory with respect to any matter enumerated in the Concurrent List of the Seventh Schedule to the Constitution shall prevail over any earlier law with respect to the same matter only if the later law receives the assent of the President. However, there is no specific provision to the effect that in the absence of assent of the President the later law shall be void to the extent it is repugnant to the earlier law. The new section proposed to be substituted by this clause seeks to make this intention clear.

Clause 5.—Section 26 of the principal Act provides that any Act of the Legislative Assembly of a Union territory and any provision in any such Act, shall not be invalid by reason only that some previous sanction or recommendation required by the principal Act was not given, if assent to that Act was given by the President. When the principal Act was last amended in 1971, provision was made in section 25 thereof empowering the Administrator to give assent to Bills passed by the Assembly except in cases specified in the second proviso to that section. Accordingly, the Administrator of the Union territory is now competent to give assent to most of the Bills passed by the Assembly. It is, therefore, necessary to amend section 26 so as to extend the protection given by that section also to the Acts of the Assembly to which assent is given by the Administrator. The proposed amendment seeks to achieve this object.

Clause 6.—This clause seeks to amend the proviso to sub-section (2) of section 33 of the principal Act so as to provide that, until the Legislative Assembly of Arunachal Pradesh makes rules for regulating its procedure, the Rules of procedure and Standing Orders with respect to the Legislative Assembly of Assam shall, subject to such modifications and adaptations as may be made therein by the administrator, apply to the Legislative Assembly of Arunachal Pradesh.

Clause 8.—This clause seeks to insert new sections 43B and 43C in the principal Act. Section 43B seeks to provide that, in the House of the People to be constituted in future, the number of seats allotted to the Union territory of Arunachal Pradesh shall be two instead of one as at present. Section 43C makes necessary provisions for delimitation of Parliamentary and Assembly constituencies in Arunachal Pradesh. As the Delimitation Commission may not be able to undertake

this work, this section seeks to entrust this work to the Election commission.

Clause 9.—This clause seeks to amend sub-section (2) of section 44 of the principal Act so as to provide that the Administrator of the Union territory of Arunachal Pradesh shall have special responsibility for the security of the border and for that purpose may issue such directions and take such measures as he may think necessary.

Clause 10.—At present, the Administrator of Arunachal Pradesh is advised by a Pradesh Council, constituted under the North-East Frontier Agency (Administration) Supplementary Regulation, 1971, and which consists of the two members of Parliament representing Arunachal Pradesh, Vice-Presidents of the five Zilla Parishads in the Union territory, fifteen representatives elected by the members of the Zilla Parishads from among themselves and three persons nominated by the Administrator. The new section 54A proposed to be inserted by this clause seeks to provide that the Pradesh Council shall function as the provisional Legislative Assembly of Arunachal Pradesh till the Assembly is constituted after elections. The members of the Council, other than the two members of Parliament, will become members of the provisional Legislative Assembly.

Clause 11.—This clause seeks to amend the Representation of the People Act, 1950 so as to provide that—

(a) seats allotted to the Union territory of Arunachal Pradesh in the House of the People and the Council of States shall be filled by election, instead of by nomination, as at present;

(b) the elected members of the Legislative Assemblly of Arunachal Pradesh shall constitute the electoral college for electing a member to the Council of States.

Clause 12.—This clause seeks to make certain amendments in the Representation of the People Act, 1951, as a consequence of the proposal to fill the seats allotted to the Union territory of Arunachal Pradesh in the House of the People by direct election.

Clause 13.—This clause provides that the amendments proposed to the Representation of the People Acts of 1950 and 1951 shall not affect the sitting members of Parliament representing the Union territory of Arunachal Pradesh.

Clause 14.—This clause seeks to amend section 3 of the North-Eastern Council Act, 1971 so as to provide that the Union territory of Arunachal Pradesh shall be represented in the North-Eastern Council by its Administrator and Chief Minister.

Clause 15.—This clause seeks to repeal the North-East Frontier Agency (Administration) Supplementary Regulation, 1971.

FINANCIAL MEMORANDUM

By virtue of the amendment proposed in clause 3 of the Bill, the Union territory of Arunachal Pradesh will have a Legislative Assembly as provided in section 3 of the Government of Union Territories Act, 1963, and a Council of Ministers as provided in section 44 of that Act. New section 43B proposed to be inserted in that Act by clause 8 of the Bill seeks to increase the number of seats allotted to the Union territory of Arunachal Pradesh in the House of the People to two. Sub-sections (2) and (3) of the new section 43C, proposed to be inserted in the same Act, by the same clause, require the Election Commission to delimit the Parliamentary and Assembly constituencies in the Union territory of Arunachal Pradesh and sub-section (4) of that section provides for associate members for assisting the Election Commission in the work of delimitation. The amendments proposed in the Representation of the People Act, 1950 by sub-clause (1) of clause 11 of the Bill seek to provide that the seats allotted to the Union territory of Arunachal Pradesh in the House of the People shall be filled by persons chosen by direct election.

2. The expenditure on the administration of the Union territory which is at present being met directly from the Consolidated Fund of India by far exceeds the revenue from the territory. Hence, as envisaged in section 47(1) of the Government of Union Territory Act, 1963, it will be necessary to give financial assistance to the territory by way of grants and loans every year from the Consolidated Fund of India. The magnitude of this assistance may vary from year to year depending on the size of the development programme and the revenue of the territory. Based on the Budget estimate of 1975-76, the quantum of such assistance is likely to be of the order of about Rs twenty-one crores, to begin with.

3. The provisions of the Bill referred to in paragraph 1 above, if enacted into law, will involve additional expenditure, as under:—

Non-Recurring Expenditure

Preparation of Electoral Rolls	Rs. 50,000
Conduct of elections in 2 Parliamentary constituencies and 30 Assembly constituencies	Rs. 10,00,000
Total non-recurring expenditure:	Rs. 10,50,000

Recurring Expenditure per annum

I. On salary and allowances of one additional member in the Lok Sabha	Rs. 33,000
II. In respect of Assembly and Council of Ministers	
(i) Salaries etc. of Ministers and their staff	Rs 3,10,000
(ii) Salaries etc. of Speaker, Deputy Speaker	Rs. 35,000
(iii) Salaries etc. of MLAs	Rs. 2,25,000
(iv) Other expenses of Assembly Secretariat	Rs. 3,50,000
Total recurring expenditure:	Rs. 9,53,000

As an expenditure of the order of Rs. 4,90,000 per annum is even now being incurred in respect of the salary and allowances of members of the Pradesh Council, Counsellors and the Council Secretariat, the additional recurring expenditure involved will, in effect, be about Rs. 4,63,000.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to include the Union territory of Arunachal Pradesh also along with the other Union territories referred to in clause (h) of sub-section (1) of section 2 of the Government of Union Territories Act, 1963 (hereinafter referred to as the Act). In consequence of this, the provisions of the Act will apply to the Union territory of Arunachal Pradesh.

Section 33 of the Act empowers the Legislative Assembly of the Union territory of Arunachal Pradesh to make rules for regulating its procedure and conduct of business and provides that such rules relating to financial business may be made by the Administrator in consultation with the Speaker and with the approval of the President. Section 46 of the Act provides for the rules regarding the transaction of business with the Ministers being made by the President and empowers the Administrator to make rules prescribing the manner of authenticating the orders issued in his name. Section 47(3) of the Act provides for rules regarding the custody etc. of the Consolidated und being made by the Administrator with the approval of the President and section 48(3) of the Act empowers the Administrator to make similar rules regarding the Contingency und of the Union territory. The rules to be made under the aforesaid sections of the Act in relation to the Union territory of Arunachal Pradesh are of a procedural nature. The delegation of legislative power is thus of a normal character .

S. L. SHAKDHER,
Secretary-General.

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